

AMENDED IN ASSEMBLY AUGUST 14, 2008

AMENDED IN ASSEMBLY AUGUST 4, 2008

AMENDED IN ASSEMBLY JUNE 11, 2008

AMENDED IN SENATE JANUARY 24, 2008

AMENDED IN SENATE JANUARY 14, 2008

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN SENATE APRIL 18, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 107

Introduced by Senator Alquist

January 18, 2007

An act to add Article 2.7 (commencing with Section 115950) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to wave pools.

LEGISLATIVE COUNSEL'S DIGEST

SB 107, as amended, Alquist. Wave pools.

Existing law regulates safe recreational water use, including, but not limited to, the recreational use of reservoirs, public beaches, and swimming pools. The Swimming Pool Safety Act establishes certain safety standards requiring swimming pool enclosures, safety pool covers, or exit alarms, as defined, or certain other means of protection.

This bill would enact the Wave Pool Safety Act and require a wave pool operator to comply with several specified safety requirements, including, but not limited to, providing a United States Coast

Guard-approved Type II or Type III lifevest that is free and available for use by any nonswimmer, as defined, any child under 48 inches in height, or any other patron at the request of the patron, as specified. The bill would require children under 48 inches in height, regardless of whether the child is accompanied by an adult, to wear a properly fitting United States Coast Guard-approved Type II or Type III lifevest to gain access to a wave pool. The bill would further require an audible signal, as specified, to sound within 15 seconds immediately prior to resuming the breaking wave action in order to warn patrons, as defined, of impending waves. The bill would require the wave pool operator to deny entrance into the park, or require the removal from the park, of a person or child under specified circumstances. The bill would also require signs indicating these requirements to appear at the ticket booth or entrance gate to the park or other facility where the wave pool is located. The bill would require lifeguards to be assigned to guard a wave pool, as specified. ~~The bill would provide that federal wave pool regulations in effect on or after January 1, 2009, apply in this state, except as specified.~~ The bill would also set forth legislative findings and declarations ~~and include a statement of legislative intent.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~(a)~~ The Legislature finds and declares all of the
2 following:
3 ~~(1)~~
4 (a) The purpose of the Wave Pool Safety Act is to help safeguard
5 wave pool users who are most at risk.
6 ~~(2)~~
7 (b) The provisions of this act should not be interpreted to
8 diminish the role of parents or adults charged with supervising
9 children in wave pools. Parents and adults who supervise children
10 need to be educated about the potential dangers and inherent risks
11 for children and nonswimmers using wave pools. Working in
12 tandem with lifeguards on duty, parents and adults supervising
13 children need to remain alert while children are in the water.
14 ~~(3)~~
15 (c) The Legislature encourages the aquatic industry to release
16 public service announcements regarding the provisions of this act

1 and educate the public as to the dangers for children and
2 nonswimmers using, and the safety requirements of, wave pools.

3 ~~(b) It is the intent of the Legislature to provide a private right~~
4 ~~of action for a violation of the Wave Pool Safety Act.~~

5 SEC. 2. Article 2.7 (commencing with Section 115950) is
6 added to Chapter 5 of Part 10 of Division 104 of the Health and
7 Safety Code, to read:

8
9 Article 2.7. Wave Pool Safety Act

10
11 115950. This article shall be known and may be cited as the
12 Wave Pool Safety Act.

13 115951. For purposes of this article, the following definitions
14 shall apply:

15 (a) “Nonswimmer” means a person who is a weak or
16 inexperienced swimmer or a person who cannot swim.

17 (b) “Patron” means a swimmer or nonswimmer using a wave
18 pool.

19 (c) “Rest period” means a period of time that the wave
20 generating equipment for the wave pool is not producing breaking
21 waves.

22 (d) “Wave pool” means a swimming pool designed for the
23 purpose of producing breaking wave action in the water and that
24 is not primarily designed for standup surfing or bodyboarding.

25 115952. On and after January 1, 2009, a wave pool in this state
26 shall comply with all of the following:

27 (a) (1) A wave pool operator shall provide a United States Coast
28 Guard-approved Type II or Type III lifevest that is free and
29 available for use by a nonswimmer or a child under 48 inches in
30 height. A wave pool operator shall also provide a United States
31 Coast Guard-approved Type II or Type III lifevest that is free and
32 available for use to any other patron at the request of the patron.

33 (2) Notwithstanding paragraph (1), a patron, including a
34 nonswimmer and child, may use his or her own lifevest if that
35 lifevest is a United States Coast Guard-approved Type II or Type
36 III lifevest.

37 (b) (1) Children under 48 inches in height, regardless of whether
38 the child is accompanied by an adult, shall wear a properly fitting
39 United States Coast Guard-approved Type II or Type III lifevest
40 to gain access to a wave pool.

(2) A child under 42 inches in height shall be accompanied by an adult in order to gain entry into the park. A wave pool operator shall deny entrance into the park of a child under 42 inches in height if that child is not accompanied by an adult.

(3) Any person or child who refuses to comply with paragraph (2) of subdivision (a) or paragraph (1) of this subdivision shall be removed from the park by the wave pool operator.

(c) In all cases where wave action is suspended for any reason, an audible signal shall be used prior to resuming wave action to warn patrons of impending waves. That audible signal may be of any duration, but shall sound within 15 seconds immediately prior to resuming the breaking wave action. The audible signal shall be loud enough so that it can be heard by all patrons of the wave pool, but shall not exceed 90 decibels.

(d) (1) Lifeguards shall be assigned to guard a wave pool.

(2) The wave pool operator shall ensure that there are a sufficient number of lifeguards on duty to recognize, respond, and provide care to swimmers in distress or passive or active drowning persons within, but no longer than, 30 seconds of the onset of their peril.

(3) A lifeguard subject to this subdivision shall have an unobstructed view of, and be able to completely observe, in its entirety, his or her defined zone of protection in the wave pool.

(4) A wave pool operator shall ensure that conditions in a wave pool are continually reevaluated for safety and shall adjust lifeguard staffing accordingly.

(e) An emergency stop for the wave equipment shall be easily accessible to the lifeguards and other pool officials, as required by the Division of Occupational Safety and Health.

(f) A wave pool operator shall ensure that the wave pool has regular periods without breaking waves being produced; to accomplish this, the wave pool operator shall ensure that continuous breaking wave cycles in a wave pool shall not exceed 15 minutes.

(g) Signs with clearly legible letters and, if appropriate, symbols, indicating the requirements described in subdivisions (a) to (c), inclusive, shall appear at the ticket booth or entrance gate to the park or other facility where the wave pool is located.

~~(h) All wave pool regulations and any amendments to those regulations adopted pursuant to federal law, that are in effect on January 1, 2009, or that are adopted on or after that date, shall be~~

1 ~~the wave pool regulations of the state, except as otherwise~~
2 ~~authorized pursuant to federal law.~~

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